

Federal Trade Commission

§ 3.11

SOURCE: 32 FR 8449, June 13, 1967, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes affecting part 3 appear at 50 FR 53305, Dec. 31, 1985.

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings

§ 3.1 Scope of the rules in this part.

The rules in this part govern procedure in adjudicative proceedings. It is the policy of the Commission that, to the extent practicable and consistent with requirements of law, such proceedings shall be conducted expeditiously. In the conduct of such proceedings the Administrative Law Judge and counsel for all parties shall make every effort at each state of a proceeding to avoid delay.

§ 3.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings conducted under one or more of the statutes administered by the Commission which are required by statute to be determined on the record after opportunity for an agency hearing. The term includes hearings upon objections to orders relating to the promulgation, amendment, or repeal of rules under sections 4, 5 and 6 of the Fair Packaging and Labeling Act and proceedings for the assessment of civil penalties pursuant to § 1.94 of this chapter. It does not include other proceedings such as negotiations for the entry of consent orders; investigational hearings as distinguished from proceedings after the issuance of a complaint; requests for extensions of time to comply with final orders or other proceedings involving compliance with final orders; proceedings for the promulgation of industry guides or trade regulation rules; proceedings for fixing quantity limits under section 2(a) of the Clayton Act; investigations under section 5 of the Export Trade Act; rulemaking proceedings under the Fair Packaging and Labeling Act up to the time when the Commission determines under § 1.26(g) of this chapter that objections sufficient to warrant the holding of a public hearing have been filed; or the promul-

gation of substantive rules and regulations, determinations of classes of products exempted from statutory requirements, the establishment of name guides, or inspections and industry counseling, under sections 4(d) and 6(a) of the Wool Products Labeling Act of 1939, sections 7, 8(b), and 8(c) of the Fur Products Labeling Act, and sections 7(c), 7(d), and 12(b) of the Textile Fiber Products Identification Act.

[45 FR 67319, Oct. 10, 1980]

Subpart B—Pleadings

§ 3.11 Commencement of proceedings.

(a) *Complaint.* Except as provided in § 3.13, an adjudicative proceeding is commenced when an affirmative vote is taken by the Commission to issue a complaint.

(b) *Form of complaint.* The Commission's complaint shall contain the following:

(1) Recital of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(2) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the type of acts or practices alleged to be in violation of the law;

(3) Where practical, a form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint; and

(4) Notice of the time and place for hearing, the time to be at least thirty (30) days after service of the complaint.

(c) *Motion for more definite statement.* Where the respondent makes a reasonable showing that it cannot frame a responsive answer based on the allegations contained in the complaint, the respondent may move for a more definite statement of the charges against it before filing an answer. Such a motion shall be filed within ten (10) days after service of the complaint and shall point out the defects complained of and the details desired.

[32 FR 8449, June 13, 1967, as amended at 43 FR 11978, Mar. 23, 1978; 50 FR 53305, Dec. 31, 1985]